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Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

August 17, 2012

Von J. Christiansen
Beaver County Attorney
P.O. Box 391
2270 South 525 West
Beaver, UT 84713

Mr. Christiansen:

Recently there has been discussion between land owners in Beaver County, the Beaver County Sheriff's Office, and representatives from the Division of Water Rights regarding the authority for state employees and, in some instances, private individuals to access private property to distribute water from the Beaver River. The purpose of this letter is to bring to your attention state statutes pertinent to this issue.

The Division of Water Rights, which is also known as the State Engineer's Office, is responsible for implementing the various water rights decrees in the state, including the 1931 Beaver River Decree issued by Judge LeRoy H. Cox. Reference to this authority is found under §73-5-3 of Utah Code which states in part: "The state engineer and his duly authorized assistants shall carry into effect the judgments of the courts in relation to the division, distribution or use of water under the provisions of this title."

The employees of the Division of Water Rights often have to traverse private lands in the performance of their duties. State statute allows for this under §73-2-20(1) which says, "In order to carry out the purposes of this title any person properly employed hereunder is authorized to enter and cross all lands within the state if no damage is done to private property."

Additionally, statute grants a right of way to private citizens for the purpose of maintaining diversion structures and measuring devices. §73-1-6 says the following:

Any person shall have a right of way across and upon public, private and corporate lands, or other rights of way, for the construction, maintenance, repair and use of all necessary reservoirs, dams, water gates, canals, ditches, flumes, tunnels, pipelines and areas for setting up pumps and pumping machinery or other means of securing, storing, replacing and conveying water for domestic, culinary, industrial and irrigation purposes or for any necessary public use, or for drainage, upon payment of just compensation therefor, but such right of way shall in all cases be exercised in a manner not unnecessarily to impair the practical use of any other right of way, highway or public or private road, or to injure any public or private property.



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It's important to us that water users have access to their diverting works and measuring devices. This helps ensure that head gates, ditches, flumes, and other devices are in good working order which allows us to efficiently and fairly distribute the water.

Additionally, there may be third-party entities who are neither state employees nor ditch owners who are interested in inspecting the measuring devices on the Beaver River System. We consider their interests to be separate from those we have laid out in this letter. Rocky Ford Irrigation Company is an example of such a third party and we understand that they are separately pursuing the issue of access with your office.

We understand that water rights and property issues are very important to the people in Beaver County and our intent is to foster communication and understanding amongst the various people involved. If you have any questions for us or if we can be of further assistance, please contact Jared Manning, Assistant State Engineer, at (801) 538-7380 or at jaredmanning@utah.gov.

Sincerely,



Kent Jones, P.E.
State Engineer

cc:

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Beaver River Distribution System File